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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/648,282	08/24/2000	Brent R. Constantz	CORA-011	5591

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EXAMINER

GHAFOORIAN, ROZ

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/648,282

Applicant(s)

CONSTANTZ ET AL. 

Examiner

Roz Ghafoorian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 August 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☒ Claim(s) 11,22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. After further examination of the application the restriction is withdrawn and all claims will be examined.

### ***Claim Objections***

1. Claims 11, 22 are objected to because of the following informalities:
  - a. Applicant has recited in claim 11 and 22 "first and second fluid reservoir" in line 2, if the applicant is referring to the fluid reservoirs already introduced in claim 9 and 21 respectfully, the applicant need to place a "the or said" in before "first and second fluid reservoir".Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 17 recites the limitation "the internal pressure" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1-10, 15-19, 21-29, 31-36, 42-45, and 50 are rejected under 35

U.S.C. 102(e) as being anticipated by US Patent No.6290689 to Delaney et al.

Delaney teaches a system with a multi-lumen catheter, a fluid delivery system with two fluid reservoirs comprising of dissolution and a dissolution fluid attenuating fluid and negative pressure means sufficient to aspirate. The fluid system comprises of a first and second reservoir, as well as a balloon inflation system and a third lumen in the catheter. The dissolution fluid is a buffer, which is a pH elevating solution as, and organic matter dissolution is detergent.

4. Claims 46, 21 are rejected under 35 U.S.C. 102(e) as being anticipated by US.

Patent No.6471674 to Emig.

Emig teaches a fluid storage means comprising first and second fluid reservoirs.

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10, 12-19, 42-45, 47, 50 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No.6471674 to Emig and further in view of US Patent No.5792157 to Mische.

Emig teaches fluid delivery system 100 with negative pressure means 230, two separate fluid dispensing means 500 and 300, the dispensing means comprises means 320 and 520 for increasing internal pressure of each of the first and second reservoirs.

Emig teaches the invention except for a multi-lumen catheter with a balloon. Emig does discuss a catheter however; it does not describe the details structure of the catheter used. Mische teaches a multi-lumen catheter with a balloon for aspiration and irrigation purpose.

Therefore it would have been an obvious to one having ordinary skill in the art at the time the invention was made to have added a multi-lumen catheter with a balloon to Emig's system, because according to Mische this catheter allows for expansion of the lumen to allow the removal of debris. And since Emig's system is for both irrigation and aspiration it would be obvious to have a catheter with multi-lumens to allow for both aspiration and irrigation.

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6. Claims 11, 20, 22, 30-41, 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No.6471674 to Emig, in view of US Patent No.5792157 to Mische and further in view of US Patent No.6033392 to Frey et al.

As mentioned above Emig teaches the invention except for a multi-lumen catheter with a balloon and cartridge. Emig does discuss a catheter however; it does not describe the details structure of the catheter used. Mische teaches a multi-lumen catheter with a balloon for aspiration and irrigation purpose. Frey teaches a cartridge for placement of fluid reservoirs.

Therefore it would have been an obvious to one having ordinary skill in the art at the time the invention was made to have added a multi-lumen catheter with a balloon to Emig's system as well as a cartridge because according to Frey adding a cartridge will allow the fluid reservoirs to be in an antibacterial environment.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roz Ghafoorian whose telephone number is 703-305-2336. The examiner can normally be reached on 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703-308-3552. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.


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RG

December 2, 2002

A large, stylized handwritten signature, possibly reading 'R. S.', is written in black ink.A handwritten signature in cursive script, reading 'Michael J. Hayes', is written in black ink.

MICHAEL J. HAYES  
PRIMARY EXAMINER